

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

THE COLONIAL PRESBYTERIAN CHURCH,

Respondent,

v.

HEARTLAND PRESBYTERY,

Appellant.

DOCKET NUMBER WD74374

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: June 26, 2012

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Justine E. Del Muro, Judge

JUDGES

Division Two: Howard, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

ATTORNEYS

J. Brett Milbourn, Eric M. Shimamoto, and Ryan G. Terril
Kansas City, MO

Attorneys for Respondent,

Allan V. Hallquist
Kansas City, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

THE COLONIAL PRESBYTERIAN
CHURCH,

Respondent,

v.

HEARTLAND PRESBYTERY,

Appellant.

OPINION FILED:
June 26, 2012

WD74374

Jackson County

Before Division Two Judges:

Victor C. Howard, Presiding Judge, and Mark D. Pfeiffer
and Karen King Mitchell, Judges

This is a church property case. The first issue is whether a national church's constitution, which purported to convey to the national church a local church's property in trust, is binding upon the local church, when the local church's own documents indicated allegiance to the national church but when the local church never indicated (in writing or otherwise) an intention to create a trust in favor of the national church. We hold that the local church never conveyed its property in trust.

The second issue is whether Missouri law governs the relationship between the local church and the national church with respect to property held in Kansas. Since both the local church and the national church's representative here are both Missouri entities, we hold that Missouri law governs their relationship.

AFFIRMED.

Division Two holds:

A document purporting to create an express trust must be signed by the settlor. § 456.4-407. In addition, such a document must contain an expression of the settlor's intention to convey the property in trust, § 456.4-402(2); *Heartland Presbytery v. Gashland Presbyterian Church*,

2012 Mo. App. LEXIS 16, *15-16 (Mo. App. W.D. Jan. 10, 2012), and a definite description of the property to be conveyed. *Edgar v. Fitzpatrick*, 377 S.W.2d 314, 318 (Mo. banc 1964).

The documents that Heartland Presbytery relies upon contain none of these elements, and Heartland does not allege that a constructive or a resulting trust exists. Accordingly, the circuit court did not err in finding that The Colonial Presbyterian Church never conveyed its property in trust.

The conflict of laws here (if there is one) is the difference between the neutral principles approach and the rule of deference approach. These principles speak not to trust law, but to how a jurisdiction treats the relationship between its local churches and the larger religious organizations with which those churches are affiliated. Thus, it is *the situs of the relationship* that is the crucial issue.

Colonial is a Missouri church, and Heartland is a Missouri Presbytery. The Supreme Court of Missouri has adopted the neutral principles approach in deciding how disputes between local churches and national churches should be resolved, and, since we have two Missouri religious organizations before the court, that is the approach that governs.

To the extent this case presents a true conflict of laws issue, the most significant relationship test, which Missouri courts use to resolve true conflicts, *Ameristar Jet Charter, Inc. v. Dodson Int'l Parts, Inc.*, 155 S.W.3d 50, 58 (Mo. banc 2005) (holding that the most significant relationship test applies when there is a conflict between substantive laws); would favor finding that the relationship between Colonial and Heartland be decided under Missouri law.

Accordingly, the circuit court did not err in applying Missouri law.

Opinion by: Karen King Mitchell, Judge

June 26, 2012

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.